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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/998,507	12/26/1997	ALBERT BAUER	1704345	2665

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EXAMINER

FORD, JOHN K

ART UNIT

PAPER NUMBER

3743

DATE MAILED: 07/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/998507

Applicant(s)

Bauer

Examiner

FORD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2002
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-63 is/are pending in the application.
- 4a) Of the above claim(s) 47-50, 61 & 63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-46, 51-59 is/are rejected.
- 7) ☒ Claim(s) 60 and 62 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Applicant's response of March 12, 2002 (Paper No. 29) has been carefully considered.

Applicant argues that Johannsen has no "means for regulating an increase in pressure in the at least one room relative to an outside pressure, to vary the room pressure in correspondence to the selected room temperature". The Examiner disagrees.

Figure 5 of Johannsen and the description thereof beginning at col. 12, line 39 clearly discloses regulating the exhaust blower to be a fixed CFM below the supply air CFM. This clearly varies the room pressure relative to the outside so "that a slight positive pressure will be maintained in the building to prevent infiltration and to establish exfiltration therethrough (col. 12, lines 59-61). The regulation is done by control circuitry actuating intake vanes 37 associated with the inlet of the blower. Moreover there is a clear variation of the room pressure in correspondence to the selected room temperature, as disclosed in col. 4, lines 36-47. It is conventional in this art to have the dampers in damper control boxes 21a and 21b in Figure 1 open and close to modulate the amount of conditioned air entering a room (or zone) based on the temperature sensed in the thermostat located in that room (or zone).

Like Johannsen, applicant discloses a series of control systems which together ^{co-act} ~~coact~~ to produce the result claimed in the last clause of claim 44.

Applicant's comments with respect to the other references are similarly unconvincing. With respect to Rayburn applicant ignores the specific Figure and description that the Examiner called to his attention and instead argues an air quality sensor (irrelevant to the claims at issue

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here) in Rayburn behaves in some other manner. Rayburn was only used to illustrate how conventional thermostatic room dampers operate and nothing more.

With respect to Benton, applicant appears to concede that it teaches the subject matter of claim 45, because applicant fails to argue that it doesn't. The same is true of Robinson with regard to claim 46.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 44 and 51-59 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Johanssen (4,257,318).

See col. 2, lines 3-15 and Figure 5, in particular.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 44 and 51-59 rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art as applied to claims 44 and 51-59 above, and further in view of Rayburn et al. (5,971,067).

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Rayburn discloses in Figure 2, and col. 7, lines 1-12 how conventional zone air-volume controllers work. The explanation in Johanssen is quite abbreviated, however it is clear from the state of the art that Johanssen is disclosing a variable air volume system such as shown by Rayburn and, to the extent that it is necessary, it would have been obvious to have used Rayburn's room temperature controlled dampers in Johanssen.

Claim 45 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of the prior art as applied to claim 44 above, and further in view of Benton et al. (4,347,712).

To vary supply air temperature of Johanssen in the manner taught by Benton to save energy would have been obvious to one of ordinary skill.

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over any of the prior art as applied to claim 44 above, and further in view of Robinson (4,189,094).

Robinson teaches varying the amount of ventilation of a building responsive to outdoor temperature. To have varied the pressure set point of the supply fan to increase the fan speed of Johanssen in response to outdoor temperature as taught by Figure 3 of Robinson to save energy would have been obvious to one of ordinary skill.

Claims 60 and 62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

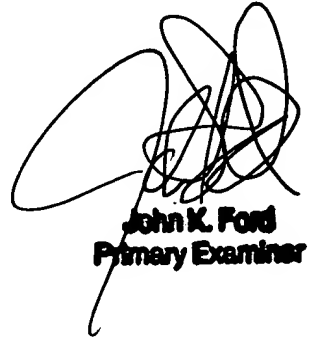
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to John Ford at telephone number 308-2636.

J. FORD:th
June 29, 2002



John K. Ford
Primary Examiner